

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

HENRY CLINE,

Defendant.

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CASE NO. 8:10CR20

**MEMORANDUM
AND ORDER**

This matter is before the Court on the Findings and Recommendation (Filing No. 27) issued by Magistrate Judge F.A. Gossett recommending denial of the Defendant's motion to suppress (Filing No. 19). No objections have been filed to the Findings and Recommendation as allowed by 28 U.S.C. § 636(b)(1)(C).

The Defendant seeks an order suppressing statements made to law enforcement officers on November 5, 2009. Briefly, F.B.I. Special Agent Howard spoke with Cline at a police substation on October 9, 2009, about an alleged sexual assault on a child. Later, a polygraph was scheduled for November 5, 2009. On that date, F.B.I. Special Agent Betten obtained from Cline a written waiver of his *Miranda* rights and a signed consent to be interviewed as part of a polygraph test. Agent Betten challenged Cline's truthfulness during the prepolygraph interview. Cline exercised his right to refuse the polygraph test and gave a written inculpatory statement.

Judge Gossett concluded: the interviews on both dates were noncustodial; although not required, *Miranda* warnings were given on November 5, 2009; and Cline's statements given on both dates were knowingly and voluntarily made.

Notwithstanding the absence of objections, under 28 U.S.C. § 636(b)(1)(C) the Court has conducted a de novo review of the record. The Court has read the parties' briefs and

the transcript. The Court has also viewed the evidence. Because Judge Gossett fully, carefully, and correctly applied the law to the facts, the Court adopts the Findings and Recommendation in their entirety.

IT IS ORDERED:

1. The Magistrate Judge's Findings and Recommendation (Filing No. 27) are adopted in their entirety; and
2. The Defendant's motion to suppress (Filing No. 19) is denied.

DATED this 30th day of April, 2010.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge